



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT

ISSUED TO

MR. DINESH J. PATEL

FOR

TRAVELER'S INN WASTEWATER TREATMENT PLANT

VPDES Permit No. VA0092584

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Dinesh Patel, regarding the Traveler's Inn Wastewater Treatment Plant, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "305(b) report" means the report required by Section 305(b) of the Clean Water Act (33 United States Code § 1315(b)), and Va. Code § 62.1-44.19:5 for providing Congress and the public an accurate and comprehensive assessment of the quality of State surface waters.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Discharge" means discharge of a pollutant. 9 VAC 25-31-10
6. "Discharge of a pollutant" when used with reference to the requirements of the VPDES permit program means:
 - (a) Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - (b) Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
7. "DMR" means Discharge Monitoring Report.
8. "Effluent" means wastewater – treated or untreated – that flows out of a treatment plant, sewer, or industrial outfall.
9. "Facility" or "Plant" means the Traveler's Inn Wastewater Treatment Plant located at 16501 Sunnybrook Road, Petersburg, Virginia, which treats and discharges treated sewage and other domestic wastes for the Inn.
10. "Mr. Patel" means Dinesh J. Patel, a resident of Petersburg, Virginia. Mr. Patel is a "person" within the meaning of Va. Code § 62.1-44.3.
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
12. "O&M" means operations and maintenance.
13. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
14. "Permit" means VPDES Permit No. VA0092584, which was issued under the State Water Control Law and the Regulation to Dinesh J. Patel on October 1, 2013 and which expires on September 30, 2018.
15. "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 *et seq.*)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water... 9 VAC 25-31-10.
16. "Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of

animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution." Va. Code § 62.1-44.3.

17. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
18. "Regulation" means the VPDES Permit Regulation, 9 VAC 25-31-10 *et seq.*
19. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code.
20. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
21. "Va. Code" means the Code of Virginia (1950), as amended.
22. "VAC" means the Virginia Administrative Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Mr. Patel owns and operates the Plant. The Permit allows Mr. Patel to discharge treated sewage and other domestic wastes from the Plant, to an unnamed tributary to Jones Hole Swamp, in strict compliance with the terms and conditions of the Permit.
2. The unnamed tributary is located in the Chowan and Great Dismal Swamp Basin. Jones Hole Swamp is listed in DEQ's 2014 305(b) report as impaired for E. coli. The source of the impairment is listed as unknown.
3. In submitting his DMRs, as required by the Permit, Mr. Patel has indicated that he has exceeded discharge limitations contained in Part I.A.1 of the Permit, for ammonia, total suspended solids, carbonaceous biochemical oxygen demand, total kjeldahl nitrogen and E. coli. In certain cases Mr. Patel failed to submit a letter of explanation for the

exceedance, as required by Part II.I of the Permit. In addition Mr. Patel has submitted DMRs that were late, incomplete or incorrect. PRO staff have also noted in a Facility inspection and through file reviews that the water quality sampling report, required by Part I.C.8 of the Permit, has not been received by the Department, that Mr. Patel failed to use the monitoring procedures approved under Title 40 of the Code of Federal Regulations at Part 136, as required by Part II.A of the Permit, in performing pH and chlorine monitoring and that Mr. Patel failed to employ a Class IV licensed wastewater works operator as required by Part I.C.4 of the Permit.

4. PRO issued Warning Letters and a Notices of Violation for violations cited above as follows: WL No. W2014-10-P-1004, issued October 14, 2014; WL No. W2015-01-P-1010, issued February 3, 2015; NOV No. W2015-05-P-0001, issued May 26, 2015, NOV No. W2016-06-P-0001 issued June 9, 2016 and NOV No. W2017-05-P-0003 issued May 30, 2017.
5. Mr. Patel responded to the Warning Letters and Notices of Violation by hiring a maintenance contractor, purchasing required monitoring equipment, seeking staff assistance with reporting requirements and consulting with a design engineer and equipment installation contractor regarding the Plant's treatment deficiencies. A plan and schedule requiring additional corrective action are incorporated in Appendix A of the Order.
6. Mr. Patel's operating logs indicate that the Plant discharged treated wastewater during the periods cited in the above referenced Warning Letters and Notices of Violation.
7. Va. Code § 62.1-44.5 states that: "[E]xcept in compliance with a certificate issued by the Board, it shall be unlawful for any person to discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances."
8. The Regulation, at 9 VAC 25-31-50, also states that except in compliance with a VPDES permit, or another permit issued by the Board, it is unlawful to discharge into state waters sewage, industrial wastes or other wastes.
9. Va. Code § 62.1-44.15(5a) states that a VPDES permit is a "certificate" under the statute.
10. The Department has issued no permits or certificates to Mr. Patel other than VPDES Permit No. VA0092584.
11. The unnamed tributary to Jones Hole Swamp is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.
12. Based on the DMRs, staff file reviews and a 2014 staff inspection, the Board concludes that Mr. Patel has violated the Permit, Va. Code § 62.1-44.5 and 9 VAC 25-31-50, by discharging treated sewage and domestic wastes from the Plant while concurrently failing to comply with the conditions of the Permit, as described in paragraph C3, above.

13. In order for Mr. Patel to return to compliance, DEQ staff and Mr. Patel have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, the Board orders Mr. Patel, and Mr. Patel agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$14,200 in settlement of the violations cited in this Order, with such payment being suspended in perpetuity so long as Mr. Patel complies with the provisions of Appendix A hereto.
3. Should DEQ determine that Mr. Patel has failed to comply with the provisions of Appendix A, it shall notify Mr. Patel of such finding and make a demand for civil charge payment. Mr. Patel agrees to make payment within 30 days of receipt of such demand.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Mr. Patel shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Mr. Patel shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Mr. Patel, for good cause shown by Mr. Patel, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Mr. Patel admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Mr. Patel consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Mr. Patel declares he has received fair and due process under the Administrative Process Act and the State Water Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Mr. Patel to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Mr. Patel shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond his control and not due to a lack of good faith or diligence on his part. Mr. Patel shall demonstrate that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Mr. Patel shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Mr. Patel intends to assert

will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Mr. Patel.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Mr. Patel has completed all of the requirements of the Order;
 - b. Mr. Patel petitions the Director or his designee to terminate the Order after he has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. The Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Mr. Patel.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Mr. Patel from his obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable. _

12. Any plans, reports, schedules or specifications attached hereto or submitted by Mr. Patel and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
14. By his signature below, Mr. Patel voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2017.

Jefferson D. Reynolds
Enforcement Division Director

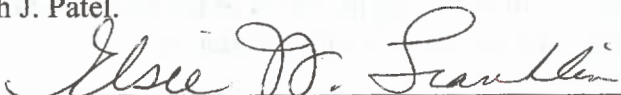
Department of Environmental Quality

Dinesh J. Patel voluntarily agrees to the issuance of this Order.

Date: 6/19/17 By: 
Dinesh J. Patel

Commonwealth of Virginia
City/County of Richmond

The foregoing document was signed and acknowledged before me this 19 day of
June, 2017, by Dinesh J. Patel.

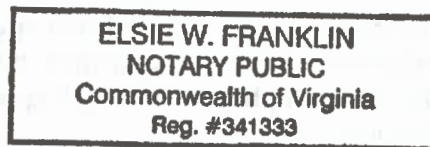

Notary Public

341333

Registration No.

My commission expires: January 31, 2020

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Operating, Monitoring and Reporting Corrective Action

- a. On or before September 1, 2017, Mr. Patel shall provide to DEQ for review and approval a copy of a proposed contract for operation of the Plant by a Class IV licensed wastewater treatment plant operator. The contract must detail the operator's responsibilities and hours of attendance at the Plant. Mr. Patel shall secure the Department's approval of the contract terms no later than October 1, 2017 and employ the operator, under the approved terms of the contract, on or before October 30, 2017.
- b. On or before December 1, 2017, Mr. Patel shall submit to DEQ the results of the water quality monitoring required by Part I.C.8 of the Permit.
- c. It is anticipated that employment of the Class IV operator discussed above will ensure that the effluent limits, monitoring and reporting requirements of the Permit will be met. However, the Department notes that the Plant may be oversized (i.e. the Plant was designed for average flows of 3560 gallons per day, but influent flows to the Plant are rarely over 500 gallons maximum per day). This design issue could lead to impaired treatment efficiencies. If Mr. Patel is unable to demonstrate consistent compliance with Permit effluent limits by May 1, 2018 (despite a presumed six months of professional operation of the Plant), Mr. Patel shall submit to DEQ, for review and approval, by July 1, 2018, a plan and schedule of corrective action to address the Permit effluent limit violations. The determination of consistent compliance with Permit effluent limits shall be made within the Department's sole discretion.

2. DEQ Contact

Unless otherwise specified in this Order, Mr. Patel shall submit all requirements of Appendix A of this Order to:

Cynthia Akers
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Cynthia.Akers@deq.virginia.gov
804-698-4188

APPENDIX A SCHEDULE OF COMPLIANCE

1. Operating, Monitoring and Reporting Corrective Action

- a. On or before September 1, 2017, Mr. Patel shall provide to DEQ for review and approval either:
 1. confirmation that he has eliminated the discharge from the Facility through a pump and haul operation; or,
 2. a copy of a proposed contract for operation of the Plant by a Class IV licensed wastewater treatment plant operator. The contract must detail the operator's responsibilities and hours of attendance at the Plant. Mr. Patel shall secure the Department's approval of the contract terms no later than October 1, 2017 and employ the operator, under the approved terms of the contract, on or before October 30, 2017.
- b. On or before December 1, 2017, Mr. Patel shall submit to DEQ the results of the water quality monitoring required by Part I.C.8 of the Permit.
- c. If Mr. Patel eliminates the Facility discharge, securing the services of a Plant operator may be delayed until such time as he recommences discharging from the Plant. Mr. Patel shall notify the Department that he intends to recommence discharging from the Facility at least 48 hours in advance of such discharge. Mr. Patel shall provide the above referenced Plant operation contract to DEQ, for its review and approval, within thirty (30) days of recommencing discharge from the Plant.

It is anticipated that employment of the Class IV operator discussed above will ensure that the effluent limits, monitoring and reporting requirements of the Permit will be met. However, the Department notes that the Plant may be oversized (i.e. the Plant was designed for flows of 3560 gallons per day, but average influent flows to the Plant are rarely over 500 gallons per day). This design issue could lead to impaired treatment efficiencies. If Mr. Patel is unable to demonstrate consistent compliance with Permit effluent limits after six months of professional operation of the Plant, he shall submit to DEQ, for review and approval, seven months after professional operation of the Plant commences, a plan and schedule of corrective action to address the Permit effluent limit violations. The determination of consistent compliance with Permit effluent limits shall be made within the Department's sole discretion.

2. DEQ Contact

Unless otherwise specified in this Order, Mr. Patel shall submit all requirements of Appendix A of this Order to:

Cynthia Akers
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060
Cynthia.Akers@deq.virginia.gov
804-698-4188